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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,929	01/23/2004	Vadakkedathu Thomas Rajan	YOR920030461US1	7862
34663 7590 07/28/2008 MICHAEL J. BUCHENHORNER 8540 S.W. 83 STREET MIAMI, FL 33143				
EXAMINER SWEARINGEN, JEFFREY R				
ART UNIT 2145		PAPER NUMBER		
NOTIFICATION DATE 07/28/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/763,929

Applicant(s)

RAJAN ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Loughmiller et al. (US 7,257,564).

4. In regard to claim 1, 8, 10, 11, , Loughmiller disclosed:

providing at least three electronic mail directories, each electronic mail directory being assigned a range of likelihood of spam content, said range being between no-likelihood-of-spam-content to very-high-likelihood-of-spam content; column 2, lines 7-30

grading the incoming electronic mail for likelihood of spam content, the grading based on pre-defined criteria provided by a user; and column 6, lines 27-46

assigning the incoming electronic mail into one or more of the electronic mail directories whose assigned ranges of likelihood of spam content encompass the likelihood of spam content grade of the incoming electronic mail. Column 6, lines 31-46; column 5, lines 12-37

5. In regard to claim 2, 9, Loughmiller disclosed:

the likelihood of spam content ranges assigned to at least two of the directories overlap such that an electronic mail whose grade is encompassed within the overlap is assigned to both of such directories. Column 5, lines 23-37

Art Unit: 2145

6. In regard to claim 3, Loughmiller disclosed:

presenting the user with an indication that the incoming electronic mail has been placed in more than one directory. Column 7, lines 1-9; column 7, lines 23-32

7. In regard to claim 4, Loughmiller disclosed:

prompting the user to take an action on the incoming electronic mail that has been placed in more than one directory. Column 7, lines 23-32

8. In regard to claim 5, Loughmiller disclosed:

voting on the likelihood of spam content of the incoming electronic mail. Column 7, lines 23-32

9. In regard to claim 6, Loughmiller disclosed:

receiving new information on user behavior and re-grading the electronic mail based on the new information. Column 7, lines 1-9

10. In regard to claim 7, Loughmiller disclosed:

relocating electronic mail from one directory to another based on the re-grading. Column 7, lines 23-32

11. In regard to claim 12, Loughmiller disclosed:

retrieving stored electronic mail messages; column 7, lines 1-9
reclassifying the stored electronic mail messages according to the grading of the incoming electronic mail messages, wherein said stored electronic mail messages and the incoming electronic mail messages contain a common criterion used in the grading; and column 7, lines 1-9
reassigning the stored electronic mail messages to another electronic mail directory based upon the reclassification. Column 7, lines 1-9

12. In regard to claim 13, Loughmiller disclosed:

prompting the user before the stored electronic mail messages are reassigned. Column 7, lines 23-32

13. In regard to claim 14, Loughmiller disclosed:

the number of directories is specified by the user. Column 7, lines 23-32

14. In regard to claim 15, Loughmiller disclosed:

Art Unit: 2145

assigning a label to each directory, said label comprising a user-friendly identifier. Column 5, lines 12-37

15. In regard to claim 16, Loughmiller disclosed:

the user-friendly identifier is selected from a group consisting of: colors, names, tasks, content and spam levels. Column 5, lines 12-37

16. In regard to claim 17, Loughmiller disclosed:

the ranges are assigned by the user. Column 7, lines 1-9

Claim Rejections - 35 USC § 101

17. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

18. Claims 8-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed mail system is software *per se* that is not embodied upon any hardware or computer-readable medium. Software *per se* is not patentable. *Parker v. Flook*.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Smith US 2008/0120378

21. Pang US 2006/0031303

22. Doan et al. US 2005/0188023

23. Hehl et al. US 7,386,520

24. Prakash US 7,373,385

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

Art Unit: 2145

shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen
Examiner
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